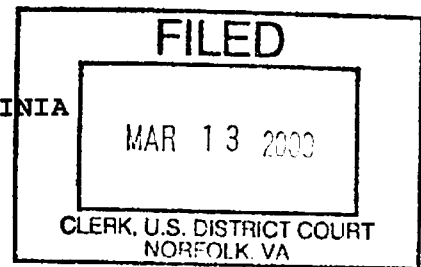


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



JAMES DEVON POWELL, #19898-056,

Petitioner,

v.

2:08CV569

PATRICIA R. STANSBERRY, WARDEN,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner is currently incarcerated at the Federal Correctional Institute in Petersburg, Virginia. The petition alleges violation of federal rights pertaining to petitioner's convictions in the United States District Court for the Eastern District of North Carolina.


The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge filed his report recommending dismissal of the petition on January 13, 2009. By copy of the report, petitioner was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the report and the time for filing same has expired.

The Court does hereby accept the findings and recommendations set forth in the report of the United States Magistrate Judge. Therefore, it is ORDERED that the petition be DENIED and DISMISSED on the

basis that the petition should have been filed in the United States District Court for the Eastern District of North Carolina under 28 U.S.C. § 2255.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within sixty days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner.



Raymond A. Jackson
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

March/3, 2009